

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GARY KEMP,

Petitioner,

-against-

JOSEPH NOETH,

Respondent.

20-CV-9121 (CM)

20-CV-10012 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

By order dated November 4, 2020, the Court notified Petitioner Gary Kemp that his petition for a writ of *habeas corpus* under 28 U.S.C. § 2254, which had been opened as an action under docket number 20-CV-9121, was deficient because the signature page was missing.

On November 25, 2020, Petitioner filed a signed petition for a writ of *habeas corpus* under 28 U.S.C. § 2254. This petition likely was filed in response to the Court's November 4, 2020 order, but it was opened as a new action under docket number 20-CV-10012, instead of being filed as an amended petition in his original action.

The Court therefore directs the Clerk of Court to (1) administratively close the action under docket number 20-CV-10012; and (2) file the § 2254 petition, which is currently docketed as ECF No. 1 in the action under docket number 20-CV-10012, as an amended petition in the action under docket number 20-CV-9121. Thereafter, the claims asserted in Petitioner's November 25, 2020 petition will proceed under docket number 20-CV-9121.

The Clerk of Court is directed to mail a copy of this order to Petitioner and note service on the docket. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order

would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: December 8, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge